

## REMARKS

### Statement of Ownership Interest

5           The Office Action objects to the submission establishing ownership interest. Applicant submits herewith a substitute statement establishing authority of the signer to sign this type of document.

### Reissue Oath/Declaration

10           Claims 1-35 and 51-94 stand rejected as being based on a defective reissue declaration. The reissue declaration allegedly fails to set forth at least one error which is relied upon to support the reissue application. The Office Action maintains that the reissue oath/declaration does not specifically indicate what the defects are, how they arose, or when they were discovered.

15           Applicant's statement of error in the original declaration was not objected to; however, the declaration was submitted unsigned. Applicant submits herewith a signed declaration containing the same statement as contained in the original declaration/power of attorney form.

            Applicant submits that this declaration sufficiently sets forth the error that  
20 occurred. The original application failed to claim certain embodiments. For example, the original application failed to claim specific embodiments that are now claimed in the new claims of this reissue application. These embodiments do not require that a virtual device driver be involved. Applicant notes that the MPEP § 1414 states:

25           The "at least one error" which is relied upon to support the reissue application must be set forth in the oath/declaration. It is not necessary, however, to point out how (or when) the error arose or occurred. Further, it is not necessary to point out how (or when) the error was discovered. If an applicant chooses to point out these matters, the statements directed to these matters will not be reviewed by the examiner, and  
30           the applicant should be so informed in the next Office action. All that is needed for

the oath/declaration statement as to error is the identification of "at least one error" relied upon.

### Recapture

5        Claims 51-94 stand rejected under 35 USC § 251 as allegedly being an improper recapture of subject matter deliberately cancelled in the application for the patent upon which the present reissue is based. The Office Action notes that the "virtual device driver" limitation is not present in these claims.

Applicant submits that claims are not within the recapture doctrine if:

- 10        (1) they materially differ in scope from the surrendered claims; or  
      (2) they are narrower an aspect germane to the prior art rejection.

Applicant submits that applicant's reissue claims satisfy both conditions. Applicant's reissue claim are materially different than the surrendered claim 11 and they are narrow in an aspect germane to the prior art rejection.

15

### (1) Material Differences in Scope

Claims of a reissue are not within the recapture doctrine if they differ materially from the abandoned claims. Chisum on Patents 4:15.03[2][e], p. 15-76; Riley v. Broadway-Hale Stores, Inc., 217 F.2d 530 (9<sup>th</sup> Cir. 1954); Tee-Pak, Inc. v. St. Regis Paper Co., 491 F.2d 113 (6<sup>th</sup> Cir. 1974).

20

The Proper focus is on the *scope* of the claims, not on the individual *feature* or *element* purportedly given up during prosecution of the original application." Ball Cop. v. United States, 729 F.2d 1429, 1437 (Fed. Cir. 1984).

Claim 1 was never amended and reads as follows:

25

1. A computer system comprising:  
a bus;  
at least one memory coupled to the bus for storing data, including an operating system; and  
a central processing unit (CPU) coupled to the bus running the operating system with a virtual device  
30 driver (VxD), wherein the virtual device driver performs device idle detection using one or more  
events timers indicating the activity level of at least one local device, and further wherein the virtual

device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time.

Claim 11 was amended as shown by the underlined portions below:

11. A computer system comprising:

a bus;

a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a virtual device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the virtual device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.

Claims 21 and 29 were added after the first Office Action in the Original Application. These claims were not amended to overcome any art rejections:

21. A computer system comprising:

at least one bus;

a memory coupled to said at least one bus;

a device coupled to said at least one bus;

a processor coupled to said at least one bus, wherein the processor is configured to execute a virtual device driver to control placement of said device into a reduced power consumption state.

29. A method for controlling an input/output (I/O) device, said method comprising the steps of:

executing a virtual device driver;

monitoring activity of the I/O device;

detecting the I/O device being inactive for a predetermined period of time; and

the virtual device driver placing the I/O device in a reduced power consumption state in response to the I/O device being detected as inactive.

Thus, all issued claims contain the "virtual" limitation added to modify "device driver". Additionally, applicant argued with respect to claim 11 that the references Smith (US Patent 5,167,024), Stewart (US Patent 5,404,546), Kardach (US Patent 5,276,888), Mattox (US Patent 5,404,321) do not disclose the use of virtual device drivers. Applicant noted that the same argument applied to claims 21-35 but did not amend these claims and never responded to any art rejection of these claims. As applicant noted, these arguments were not applied to overcome any art rejections for claims 1-10 as claims 1-10 were in condition for allowance as originally filed. Thus, the only possible subject matter

surrendered is that of claim 11 prior to the characterization of the software as being a  
“virtual” device driver.

Applicant is not merely attempting to recapture claim 11 as it stood prior to  
applicant’s amendment in the original application. That is, applicant is not attempting to  
5 claim the original claim 11 absent the “virtual” limitation. Applicant’s claims do not  
recite device drivers that perform the functions and exhibit the interrelationships to the  
system as claimed in claim 11. That would be an attempt to recapture subject matter  
surrendered during prosecution.

Applicant surrendered *power management software having particular*  
10 *characteristics.* Namely, applicant surrendered power management software that is a  
“device driver” (and not just a virtual device driver) and that performs that functions and  
has the interrelations recited in claim 11. Applicant is now claiming different aspects of  
power management and related software as originally disclosed by applicant. Applicant’s  
reissue claims have additional and different limitations as to the characteristics of the  
15 power management software. These different limitations make the claims *narrower* with  
respect to the newly recited characteristics of the power management software. In other  
words, applicant has removed the characteristic that the power management software is a  
virtual device driver, but has added other material limitations.

It was applicant’s attorney’s error to not appreciate the inventive nature of these  
20 originally disclosed techniques and not to claim applicant’s invention in terms of  
limitations on the power management software other than the virtual device driver  
limitation.

Applicant now claims in claim 73 the following:

25 73. An article comprising:

a computer readable medium storing a plurality of computer executable instructions  
including power management software and additional software to implement an  
operating system, the power management software, if executed by a computer  
system, operates in an operating system cooperative manner with said operating  
30 system at a kernel level which is a highest privilege level of the operating system,  
and causes the computer system to perform:

providing support for device idle detection for an input/output device in said computer system to determine when said input/output device has been inactive for a first duration, the first duration being a user configurable duration that may be varied based on desired power savings using a graphical user interface;

placing said input/output device in a reduced power consumption state if said input/output device has been inactive for the first duration;

cooperating with a plug and play manager that, in cooperation with said power management software, allows power management of said input/output device even though said input/output device is a plug and play configurable device;

providing support for system level power management by monitoring global events;

placing said computer system into one of a plurality of system level power management states as a part of system level power management implemented by said power management software, one of said plurality of system level power management states being a sleep state into which the computer system is placed due to the system remaining idle.

This may be contrasted with applicant's original and surrendered claim 11:

Table 1

Claim 11 (amendment shown)	Claim 73	Comment
11. A computer system comprising: a bus; a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver	73. An article comprising: a computer readable medium storing a plurality of computer executable instructions including power management software and additional software to implement an operating system, the power management software, if executed by a computer system, operates in an operating system cooperative manner with said operating system  at a kernel level which is a highest privilege level of the operating system, and causes the computer system to perform: providing support for device idle	Claim 11 does not indicate that the device driver operates in an operating system cooperative manner. This is a material deviation as device drivers alone could perform power management activities.  Claim 11 does not indicate that the device driver operates at a kernel (highest) privilege level.
performing device idle detection		

<p>using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>detection for an input/output device in said computer system to determine when said input/output device has been inactive for a first duration,</p> <p>the first duration being a user configurable duration that may be varied based on desired power savings using a graphical user interface; placing said input/output device in a reduced power consumption state if said input/output device has been inactive for the first duration; cooperating with a plug and play manager that, in cooperation with said power management software, allows power management of said input/output device even though said input/output device is a plug and play configurable device; providing support for system level power management by monitoring global events;</p> <p>placing said computer system into one of a plurality of system level power management states as a part of system level power management implemented by said power management software, one of said plurality of system level power management states being a sleep state into which the computer system is placed due to the system remaining idle.</p>	<p>Claim 11 does not make any mention of user configuration of device idling duration, and does not mention configuration through a graphical user interface.</p> <p>Claim 11 does not require that the power management software cooperate with a plug and play manager. Claim 11 does not mention that devices that are power-managed are plug and play configurable devices.</p> <p>Claim 11 does not mention providing support for <u>system level</u> power management by monitoring global events.</p> <p>Claim 11 also does not mention separate "system level" power management states and in particular does not mention a sleep state into which the <u>computer system</u> is placed due to the <u>system</u> remaining idle.</p>
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Applicant submits that claim 73 differs materially from claim 11 which applicant amended to overcome the prior art. Differences for other claims are further detailed  
5 below.

A basic statement of the law for recapture was made by the CCPA in In re Willingham, 282 F.2d 353, 357 (CCPA 1960) (emphasis added):

10 The deliberate cancellation of a claim of an original application in order to secure a patent cannot ordinarily be said to be an "error" and will in most cases prevent the applicant from obtaining the cancelled claim by reissue. The extent to which it may also prevent him from obtaining other claims differing in form or substance from that cancelled necessarily depends upon the facts in each case and particularly on the reasons for the cancellation.

15 Thus, the recapture doctrine may bar obtaining the same claims, but as for claims which are different in scope, no absolute prohibition arises because of the statute. See, In re Wadlinger, 496 F.2d 1200, 1208.

Applicant's situation is akin to that in In re Richman, 409 F.2d 269 (CCPA 1969).  
20 In Richman, the applicant surrendered claims 1-15. Claims 1-15 recited the specific limitation of a "unidirectional control signal" (which was broad in that it did not specify a particular polarity). Id. at 275. The applicant added a "maximum-zero" limitation in the claims that issued in the original application. The reissue claims did not include this limitation.

25 The solicitor's statement of the question before the court was as follows:

30 May appellant, having deliberately included a certain limitation in each of his patent claims and successfully urged the patentability thereof over prior art applied against replaced original claims 1-15 on the basis of a maximum-zero control signal relationship broadly represented by the limitation, now omit that limitation in reissue claims 23-28?

Id. The Court disagreed, stating:

We do not consider this to be an accurate statement. The rejection which the board affirmed is grounded on the proposition that the appealed claims are directed to the same subject matter as cancelled claims 1-15 and that appellant is estopped to "recapture" that subject matter by reissue. The question raised is whether the appealed claims are of the same scope as the cancelled claims, not whether they lack some specific recitation absent from the cancelled claims but included in the patent claims.

Id (emphasis added). Thus, the emphasis should be whether the claims are of the same scope as claims surrendered in prosecution. The Examiner should not be fixated on whether one particular limitation is included in the reissue claims.

The Court also explained related precedent. Indeed if the removal of a limitation results in a claim being drawn to the same subject matter, then the recapture doctrine may come in to play:

Referring back to Shepard, however, it is apparent that the situation there was one in which the omission of the added limitation would have resulted in the claim being drawn to the same subject matter as the original rejected claim, to which the limitation was added, thus making it unpatentable over the prior art for the same reason as the original claim. We therefore find neither decision to be authority for the proposition that a limitation added to a claim in obtaining its allowance cannot be broadened, under present statutory law, by reissue if the limitation turns out to be more restrictive than the prior art required. Certainly one might err without deceptive intention in adding a particular limitation where a less specific limitation regarding the same feature, or an added limitation relative to another element, would have been sufficient to render the claims patentable over the prior art.

Id at 275-6 (emphasis added). In Richman, the court concluded that since each reissue claim was "more restrictive in at least one significant respect than the cancelled claims", that the applicant had not run afoul of the recapture doctrine.

Similarly, In Ball Corp. v. United States, 729 F.2d 1429, the applicant was filing a broadening reissue within two years of the issuance of the original application. One issue in that case was whether Ball was estopped from obtaining the claims sought in reissue. In Ball, the court also found that the applicant was not barred from obtaining the reissue



claims by the recapture doctrine because of the scope of the claims did not recapture that which was surrendered as other material limitations had been added to the claims.

In Ball, the issued claim recited "a plurality of feedlines" and a "substantially cylindrical conductor." Ball, 729 F.2d at 1432-33. The canceled claim recited "feed  
5 means including at least one conductive lead," and a "substantially cylindrical conductor." The prosecution history showed that the patentee added the "plurality of feedlines" limitation in an effort to overcome prior art. Id. The patentee did not argue the substantially cylindrical conductor limitation in order to overcome the prior art.

The reissue claim included limitations not present in the canceled claims that  
10 related to the feed means element, but allowed for multiple feedlines. On balance, the claim was narrower than the canceled claim with respect to the feed means aspect. The reissue claim also deleted a cylindrical configuration limitation, which made the claim broader with respect to the configuration of the conductor. Ball, 729 F.2d at 1437. The Federal Circuit allowed the reissue claim because the patentee was not attempting to  
15 recapture surrendered subject matter. Ball, 729 F.2d at 1438.

Thus, claims which differ in form and differ in scope of legal protection afforded may be obtained by reissue. In re Wadlinger, supra, 496 F.2d at 1207; In re Petro, 402 F.2d 485, 488. Where the reissue claims are different in scope from cancelled claims, an applicant may have acted in "error" even though the cancellation was deliberate. In re  
20 Richman, supra. That is because an attorney's failure to appreciate the full scope of the invention qualifies as an error under section 251 and is correctable by reissue. In re Wilder, 736 F.2d 1516, 1519 (Fed. Cir. 1984).

As in Richman and Ball, applicant is not claiming the same subject matter as was

surrendered in prosecution of the Original Patent. Applicant submits that applicant's claims materially differ in scope. The reissue claims are narrower with respect to at least one characteristic of the power management and related software than applicant's surrendered original claims because additional material limitations are recited with respect to that software.

(2) Narrower in Aspects Germane to Prior Art Rejection

As noted in MPEP § 1412.02, the Federal Circuit has set forth the following principles in In re Clement, 131 F.3d 1464 (Fed. Cir. 1997):

(1) if the reissue claim is as broad as or broader than the canceled or amended claim in all aspects, the recapture rule bars the claim; (2) if it is narrower in all aspects, the recapture rule does not apply, but other rejections are possible; (3) if the reissue claim is broader in some aspects, but narrower in others, then: (a) if the reissue claim is as broad as or broader in an aspect germane to a prior art rejection, but narrower in another aspect completely unrelated to the rejection, the recapture rule bars the claim; (b) if the reissue claim is narrower in an aspect germane to a prior art rejection, and broader in an aspect unrelated to the rejection, the recapture rule does not bar the claim, but other rejections are possible.

Clement, 131 F.3d at 1469-70. Applicant submits that these categories do not directly apply to applicant's case since applicant's claims differ materially from those in the original application. In Clement it was possible to highlight minor differences between the original claims and the reissue claims (see Appendix to Clement which includes italicized changes between reissue claim 49 and claim 1 of the issued patent).

To the extent that Clement may apply, applicant submits that applicant's claims may be considered narrower in "the aspect germane to a prior art rejection." Applicant recited in claim 11 various characteristics of the power management software including its functions and that it was a device driver. The prior art rejection in applicant's original

application was overcome by pointing to the “virtual” nature of the device driver. The virtual device driver is a piece of software that performs power management functions in applicant’s claim 11. It was apparently the characteristic of the software that the device driver was “virtual” that applicant and the prior examiner previously agreed justified  
5 patentability.

Applicant submits that other characteristics of the software could have similarly justified allowance of the original case. The rejection was that software merely characterized as a “device driver” performing the functions and having the interrelations recited in claim 11 was not patentable. At the time, applicant chose virtual device driver  
10 as the distinguishing characteristic of the power management software. Thus, the various characteristics of the power management software were germane to the prior art rejection. It is now abundantly clear that applicant disclosed numerous other valuable distinguishing characteristics for the power management software.

Accordingly, within the parlance of Clement, applicant’s proposed reissue claims  
15 are narrower with respect to characteristics of the software that performs power management functions. This is the aspect which applicant argued for patentability and therefore is the appropriate aspect to examine under Clement. For example, in claim 73, applicant’s newly claimed software performs numerous additional functions than were recited in claim 11. For example, the power management software claimed in claim 73  
20 operates in “an operating system cooperative manner” with the operating system. Applicant’s original claim 11 covers both virtual device drivers that cooperate with the operating system and virtual device drivers that operate independently to effectuate device idle detection and to put a device in a low power state. Therefore applicant’s

claim 73 is more limited than claim 11 with respect to the characteristics of the power management software because the software *must cooperate* with the operating system in performing power management functions such as device idle detection whereas a virtual device driver according to claim 11 could *independently* perform idle device detection  
5 and powering down.

Additionally, claim 11 is not limited to having the virtual device driver operate at a kernel (highest) privilege level. Claim 11 is also not limited to software which provides a graphical user interface. Moreover, claim 11 does not require that the virtual device driver support system level power management or a sleep state which the system is  
10 placed in due to the system remaining idle.

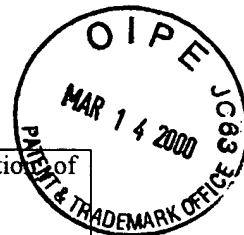
The following table summarizes, for applicant's independent claims, the different characteristics of the claimed power management software to the power management software claimed in claim 11. This table therefore highlights what applicant submits are *material differences in scope* of applicant's claims from the claims surrendered in  
15 prosecution. Applicant submits therefore that the claims do not fall within the recapture rule.

This table also addresses the Federal Circuit's approach in Clement. For each claim, applicant has highlighted the differences in the characteristics of the power management software. The different limitations in the power management software as  
20 compared to claim 11 make each independent claim narrower in that respect than the surrendered subject matter from the original claim 11. Accordingly, applicant submits that such claims are permissible for reissue under Clement. Repeated differences may not be explained in detail each time they appear.

Table 2

Claim 11 (Amendment To Gain Allowance Shown By Underscored Text)	Independent Reissue Claims	Exemplary Differences In Scope & Additional Limitations (Narrower Aspects) With Respect To The Software That Performs Power Management Activities.
<p>11. A computer system comprising: a bus; a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>51. An article comprising: a machine readable storage medium storing instructions comprising a device manager and power management software, said power management software, if executed by a system: cooperates with said device manager to allow power management of a plurality of devices in the system which are configurable devices; and manages a power level for each of the plurality of devices which in the system and is capable of placing one or more of said plurality of devices in a reduced power consumption state.</p>	<p>Claim 51 is different in scope in that it claims a “device manager” and “power management software”. The power management software and the device manager <u>cooperate</u> to allow power management of a plurality of <u>configurable devices</u>. The power management software manages a power level for each of the plurality of devices.</p> <p>In contrast, claim 11 claims a virtual device driver that performs idle detection using one or more event timers indicating the activity level of at least one local device. The virtual device driver places idle devices in a reduced power consumption state when associated event timers indicate that no activity has occurred for a predetermined period of time, and this is done transparently to a power unaware application. By applicant’s inclusion of the term “virtual” applicant surrendered the subject matter of having any device driver perform the operations recited in claim 11.</p>
		<p>However, applicant is not attempting to recapture the use of a device driver as claimed for a virtual device driver in claim 11. Applicant is claiming power management software with other limiting characteristics. Applicant claims in claim 51 that system power management software cooperates with a device manager to allow power management of configurable devices. The software manages the power level and is capable of</p>

		placing one or more of the devices in a reduced power consumption state. Thus, claim 51 recites additional and different constraints on the power management software not found in claim 11.
<p>11. A computer system comprising:  a bus;  a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>64. An article comprising:  a machine readable storage medium storing power management software which, if executed by a system, coordinates power management for a plurality of devices; and registers with a configuration manager to be notified of configuration changes for any of said plurality of devices.</p>	<p>The power management software in claim 11 does not register with a configuration manager so that it is notified of configuration changes for any of a plurality of devices.</p>
<p>11. A computer system comprising:  a bus;  a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has</p>	<p>70. An article comprising:  a computer readable storage medium storing power management software comprising a power manager and additional software which is operating system software, the power management software, if executed by a computer:  forms a part of a kernel level of an operating system for the computer;  cooperates with a device manager to allow power management of a plurality of system devices after reconfiguration</p>	<p>Claim 11 does not specify that the power management software must form a part of the kernel of the operating system for the computer.</p> <p>Claim 11 does not specify that the power management software cooperates with a device manager to allow power management of</p>



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<p>occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>of said plurality of system devices; and</p> <p>manages a power level of the computer.</p>	<p>devices after reconfiguration of these devices.</p> <p>Claim 11 also does not specify that the power management software manages a power level of the computer.</p>
11. ---	(for claim 73, see Table 1, <i>supra</i> )	
<p>11. A computer system comprising:</p> <p>a bus;</p> <p>a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>74. A method comprising:</p> <p>monitoring, using power management software, a power level of a plurality of devices in a system;</p> <p>detecting an inactive device;</p> <p>placing one of said plurality of devices in a reduced power consumption state due to detected inactivity;</p> <p>performing system level power management using said power management software; and</p> <p>allowing continued power management of devices after device reconfiguration.</p>	<p>The power management software of claim 11 does not perform system level power management.</p> <p>The power management software of claim 11 does not have any constraints with respect to device configuration, and particularly need not allow continued power management after device reconfiguration.</p>
<p>11. A computer system comprising:</p> <p>a bus;</p> <p>a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers</p>	<p>80. A method comprising:</p> <p>coordinating power management for a plurality of devices;</p> <p>registering with a configuration manager to be notified of configuration changes for any of said plurality of devices.</p>	<p>Claim 11 does not require power management software to register with a configuration manager to be notified of configuration changes for any of a plurality of devices.</p>

<p>indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>		
<p>11. A computer system comprising: a bus; a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to said at least one power-unaware application.</p>	<p>86. A system comprising: a bus; a plurality of devices coupled to said bus, the plurality of devices being configurable devices, the system being capable of reconfiguring said plurality of devices; a memory containing a device manager and power management software which, if executed by the system, cooperates with said device manager to allow power management said plurality of devices in the system and manages a power level of said plurality of devices.</p>	<p>Claim 11 does not require that the system be capable of reconfiguring devices.</p> <p>Claim 11 does not require that the power management software cooperate with a device manager to allow power management of reconfigurable devices.</p>
<p>11. A computer system comprising: a bus; a central processing unit (CPU) coupled to the bus running an operating system and at least one power-unaware application, wherein the operating system has a <u>virtual</u> device driver performing device idle detection using one or more events timers indicating the activity level of at least one local device, and further wherein the <u>virtual</u> device driver places idle local devices in a reduced power consumption state when associated events timers indicate that no activity has occurred for a predetermined period of time transparent to</p>	<p>94. A system comprising: a device; a processor; a memory containing power management software which, if executed by said system coordinates power management for a plurality of devices; and registers with a configuration manager to be notified of configuration changes for any of said plurality of devices.</p>	<p>Claim 11 does not require power management software to register with a configuration manager to be notified of configuration changes for any of a plurality of devices.</p>



said at least one power-unaware application.		
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In view of:

(1) the material differences in what applicant now claims with respect to any surrendered subject matter; and

5 (2) the specific additional characteristics which narrow in at least one regard applicant's claimed power management software with respect to the original claim 11,

applicant submits that applicant's reissue claims are not recapturing surrendered subject matter.

10 35 USC § 112

Claim 51 was amended to overcome the 35 USC § 112 rejection. Applicant removed the word "which" from the phrase "for each of the plurality of devices which in the system and is capable...".

15 Claim 65 was amended so that it now ends in only one period.

Claim 69 was amended to clarify that the power management software is responding to a "notification of the configuration change".

Claim 73 was amended to eliminate reference to any trademarks.

Claim 81 was amended to clarify that the device driver controls a power state for  
20 the plurality of devices and performs the coordinating and registering referred to in claim 80.

Claim 85 has been amended to overcome the noted antecedent problem with respect to "power management software" and "system". In particular, claim 85 was changed to depend on claim 81. In claim 81, "device driver" was changed to --power  
25 management software--. Additionally, the reference to "the system" was removed from

claim 85.

Claim 86 has been amended to clarify that the device manager and power management software allow power management --of-- said plurality of devices.

Applicant therefore respectfully submits that the alleged § 112 deficiencies have  
5 been overcome.

Invitation for a phone interview

The undersigned attorney invites the Examiner to discuss any perceived issues which preclude allowance of this case by phone. The undersigned may be reached at  
10 408-765-5935 or at another number indicated on the voicemail of this number, 8am – 5pm PST, Monday – Friday.

Conclusion

Applicant has not made any amendments to overcome prior art.

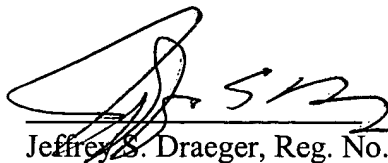
Applicant submits that all claims now pending are in condition for allowance.  
15 Such action is earnestly solicited at the earliest possible date. If there is a deficiency in fees, please charge our Deposit Acct. No. 02-2666.

Respectfully submitted,

20

Date:

3/8/00

  
Jeffrey S. Draeger, Reg. No. 41,000

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Seventh Floor  
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Group 2700

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